

VOL. I  
Pp. 1 - 247  
Exhibits 1 - 8

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. NO. 04CV11557

\* \* \* \* \*

JOSEPH BOOK,

Plaintiff

VS.

DEPARTMENT OF STATE POLICE,  
COMMONWEALTH OF MASSACHUSETTS,  
STATE TROOPER KURT M. FERRAZZANI,  
STATE TROOPER SMITH, STATE  
TROOPER MCKENZIE, AND STATE  
TROOPER HENNIGAN,

Defendants

\* \* \* \* \*

Deposition of KURT M. FERRAZZANI, a witness  
called by counsel for the Plaintiff, pursuant to the  
applicable rules, before Lorreen Hollingsworth,  
CSR/RPR, CSR NO. 114793, and Notary Public in and for  
the Commonwealth of Massachusetts, at the Offices of  
Hinckley, Allen & Snyder, 28 State Street, Boston,  
Massachusetts, on Friday, September 15, 2006, at  
10:35 a.m.

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1 interviewed Mr. Book on behalf of the  
 2 police before you did?  
 3 A No.  
 4 Q No reason to believe that anyone else  
 5 interviewed Mr. Book?  
 6 A No. Before me?  
 7 Q Correct.  
 8 A No.  
 9 Q So to put it another way, based on all the  
 10 facts that you know of this incident, you  
 11 were the first police officer to interview  
 12 Mr. Book?  
 13 A I don't know. When I arrived on scene, I  
 14 didn't see anybody interviewing him before  
 15 me.  
 16 Q Let's take it step by step. You've  
 17 described your interview.  
 18 A Mm-hmm.  
 19 Q You've told me that you don't know one way  
 20 or the other whether someone interviewed  
 21 him before you did. My question is  
 22 different.  
 23 You've said, one, you don't  
 24 know of any facts to indicate that someone

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1 did interview Mr. Book before you did,  
 2 right?  
 3 A Right.  
 4 Q And to put that affirmatively, based on all  
 5 the facts that you know, you were the first  
 6 who did interview him from the police?  
 7 A Yes.  
 8 Q Thank you. Now, you said a moment ago that  
 9 Trooper McKenzie had spoken with Mr. Book?  
 10 A At some point Trooper McKenzie had  
 11 spoken --  
 12 Q After you did?  
 13 A I don't know when.  
 14 Q Do you have any reason to believe that  
 15 Trooper McKenzie spoke to Mr. Book before  
 16 you did?  
 17 A I don't know when Al spoke to him. I don't  
 18 recall. It was six years ago.  
 19 Q Do you have any reason to believe that  
 20 Trooper McKenzie spoke with Mr. Book before  
 21 you did?  
 22 MR. ROGAL: Do you understand  
 23 the question?  
 24 A No.

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1 Q Can you read it back very slowly for --  
 2 A You don't have to read it any slower.  
 3 It's a ridiculous --  
 4 Q What don't you understand about my  
 5 question?  
 6 A Do I have any reason to believe?  
 7 Q Let me state it again.  
 8 Do you have any facts to  
 9 indicate that Mr. McKenzie interviewed  
 10 Mr. Book before you did?  
 11 A No. That's different than "any reason to  
 12 believe."  
 13 Q Let's move on.  
 14 A Please.  
 15 Q Do you know what the nature of the exchange  
 16 between Mr. McKenzie and Mr. Book was?  
 17 A No.  
 18 Q Did you, as the supervising trooper, direct  
 19 Mr. McKenzie to interview Mr. Book?  
 20 A I don't recall.  
 21 Q Was Trooper McKenzie reporting to you on  
 22 this day?  
 23 A No.  
 24 Q Were you given assignments at the scene?

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1 A No.  
 2 Q As the trooper responsible for this  
 3 investigation, did you have any particular  
 4 responsibilities that the other  
 5 Massachusetts State Police trooper did not  
 6 have?  
 7 A Yes.  
 8 Q What were those?  
 9 A To fill out the reports.  
 10 Q Did you tell Trooper McKenzie to do  
 11 anything relative to Joe Book after you  
 12 spoke to him?  
 13 A After I spoke to who, Joe or Al?  
 14 Q After you spoke with Joe Book --  
 15 A Okay.  
 16 Q -- did you give Trooper McKenzie any  
 17 instructions with respect to Joe Book?  
 18 A I might have asked Al to talk to him  
 19 because I was getting nowhere with him.  
 20 Q So you believe you instructed Trooper  
 21 McKenzie to interview Mr. Book?  
 22 A Yeah. You know, I might have asked him  
 23 that. I can't say definitely, Al, go talk  
 24 to him, or, Al, do me a favor, go talk to

32 (Pages 122 to 125)

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<p>1 him.</p> <p>2 Q I'm just looking for your best memory.</p> <p>3 Is that your recollection,</p> <p>4 Trooper?</p> <p>5 A At some point Al spoke to Mr. Book.</p> <p>6 Q Did you direct him to speak to Mr. Book?</p> <p>7 A I don't recall.</p> <p>8 Q So when you just said, I might have asked</p> <p>9 him to talk to him, that's a pure guess?</p> <p>10 A Yes.</p> <p>11 Q So we can forget that.</p> <p>12 A Okay.</p> <p>13 Q Should we? Or do you think that's what you</p> <p>14 told Trooper McKenzie?</p> <p>15 A I don't recall.</p> <p>16 Q Okay. What did you do -- did you have any</p> <p>17 further interview with Mr. Book beyond what</p> <p>18 you've just described?</p> <p>19 A No.</p> <p>20 Q What did you do next?</p> <p>21 A I spoke to Trooper McKenzie and Trooper</p> <p>22 Smith.</p> <p>23 Q What did you talk to Trooper McKenzie</p> <p>24 about?</p>	<p>1 guardrail, when you finished interviewing</p> <p>2 him, what did you do next?</p> <p>3 A I don't remember. There was an accident</p> <p>4 scene going on. I might have taken</p> <p>5 interviews; I might have gotten more</p> <p>6 interviews; I might have spoken to</p> <p>7 Troopers McKenzie and Smith.</p> <p>8 Q Tell me to the best of your recollection</p> <p>9 what you did next.</p> <p>10 A I believe I spoke to Trooper McKenzie, to</p> <p>11 talk to Mr. Book.</p> <p>12 Q So you think you told Mr. McKenzie --</p> <p>13 A I think I asked Al. I was getting nowhere</p> <p>14 with him.</p> <p>15 Q So you think you told Trooper McKenzie to</p> <p>16 interview Mr. Book. Is that your</p> <p>17 testimony?</p> <p>18 A I might have asked him -- I didn't tell him</p> <p>19 to interview. But I might have asked Al to</p> <p>20 speak to him.</p> <p>21 Q So now you do remember asking Al to speak</p> <p>22 to Mr. Book?</p> <p>23 MR. ROGAL: Objection.</p> <p>24 MR. CARTER: We're not playing</p>
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<p>1 A About the situation.</p> <p>2 Q What did you and he discuss?</p> <p>3 A I asked Al if -- you know, what he thought</p> <p>4 of interviewing Mr. Book, what he thought.</p> <p>5 Q What do you mean "what he thought"?</p> <p>6 A I asked him, Al, what's your opinion? And</p> <p>7 Al thought --</p> <p>8 Q Wait a minute, let me stop. I want things</p> <p>9 in minute periods of time.</p> <p>10 I want to pick up where you</p> <p>11 finish speaking with Mr. Book. We've spent</p> <p>12 several minutes now ascertaining that you</p> <p>13 were not aware of any facts that any other</p> <p>14 police officer spoke with Mr. Book prior to</p> <p>15 you?</p> <p>16 A Correct.</p> <p>17 Q Was Trooper McKenzie present with you when</p> <p>18 you were interviewing Mr. Book?</p> <p>19 A I don't remember.</p> <p>20 Q I want to know exactly what you did next</p> <p>21 when you finished speaking with Mr. Book.</p> <p>22 MR. ROGAL: When? The</p> <p>23 guardrail, in the car, when?</p> <p>24 Q After speaking with Mr. Book at the</p>	<p>1 games here. I'm just trying to -- wait a</p> <p>2 minute.</p> <p>3 MR. ROGAL: I'm objecting to</p> <p>4 the form of your question, which I'm</p> <p>5 entitled to do.</p> <p>6 A I'm trying to answer. It's five years ago.</p> <p>7 Q Let me just be clear. I'm not asking to</p> <p>8 you to guess or speculate. I'm just</p> <p>9 asking -- and I'm sure your lawyer has told</p> <p>10 you this -- just to tell the best of your</p> <p>11 recollection and belief.</p> <p>12 A That's what I'm trying to do.</p> <p>13 Q And none of these questions are trick</p> <p>14 questions.</p> <p>15 I've asked several times if</p> <p>16 you know whether you asked Trooper McKenzie</p> <p>17 to speak to Mr. Book, and we've been back</p> <p>18 and forth.</p> <p>19 And now I understand that</p> <p>20 you're suggesting that you think you recall</p> <p>21 asking Al McKenzie to interview Mr. Book</p> <p>22 after you interviewed Mr. Book. Is that</p> <p>23 your testimony? I'll say it more</p> <p>24 succinctly.</p>

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1 Is it your testimony that  
 2 after you spoke to Mr. Book, you asked Al  
 3 McKenzie to interview Mr. Book?  
 4 A Yes.  
 5 Q All right. And were you with Mr. McKenzie,  
 6 Trooper McKenzie, when he interviewed  
 7 Mr. Book?  
 8 A No.  
 9 Q Did Trooper McKenzie interview Mr. Book?  
 10 A I know he spoke with Mr. Book, yes.  
 11 Q Did he interview him?  
 12 A I don't know -- yes.  
 13 Q What did they discuss?  
 14 A I don't know.  
 15 Q Who made the decision to charge Joe Book?  
 16 A It was a collab- -- we all did.  
 17 Q Who was ultimately responsible for the  
 18 charging decision?  
 19 A I was.  
 20 Q Did you obtain information -- did you take  
 21 care to find out what information the other  
 22 troopers at the scene had obtained before  
 23 you made the ultimate decision to charge  
 24 Joe Book?

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1 A Yes.  
 2 Q Did you take care to obtain the information  
 3 obtained by Mr. McKenzie?  
 4 A Did I take what?  
 5 Q Did you take care, attempt -- did you  
 6 attempt to obtain information --  
 7 A Yes.  
 8 Q -- from Trooper McKenzie about what he  
 9 learned from his interview with Trooper  
 10 (sic) Book before you made the decision to  
 11 charge Mr. Book with a crime?  
 12 A Yes.  
 13 Q What did Trooper McKenzie tell you?  
 14 A I asked Al what he thought. Al told me he  
 15 could smell an alcoholic beverage on him,  
 16 also.  
 17 Q Do you remember him telling you that?  
 18 A Yes.  
 19 Q Was that a factor in your charging  
 20 decision?  
 21 A Amongst other things, yes, one factor.  
 22 Q Was it as important as the other factor?  
 23 A Every factor I take into consideration.  
 24 There's not one that's more important than

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1 the next. It's based on many factors.  
 2 Q Tell me all the factors that you relied on  
 3 in charging Joe Book with the driving while  
 4 intoxicated.  
 5 A The three field sobriety tests that  
 6 Mr. Book failed that Mr. McKenzie gave.  
 7 Q What were the three? What were they?  
 8 A I did not give them; Al gave them.  
 9 Q What were they?  
 10 A I believe they were the alphabet, the  
 11 one-legged stand, and the nine-step  
 12 walk-and-turn.  
 13 Q Are you sure about that?  
 14 A I'm not positive. Al gave the test.  
 15 Q Well, you're telling me that you relied on  
 16 the results of a field sobriety in making  
 17 the final decision to charge Mr. Book with  
 18 a crime. Is that your testimony?  
 19 A Not making the final decision; that was  
 20 one. That was one factor that I relied  
 21 upon.  
 22 Q Correct. Your testimony is that you relied  
 23 on the results of the field sobriety as one  
 24 of the factors in making the decision to

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1 charge Mr. Book with a crime?  
 2 A That's correct.  
 3 Q But you don't know what the test was?  
 4 A I didn't give the test; Trooper McKenzie  
 5 did.  
 6 Q Can you answer the question? You don't  
 7 know what the test was, is that right?  
 8 MR. ROGAL: Objection. He did  
 9 answer the question.  
 10 Q Well, I'll ask it again.  
 11 When you made the decision to  
 12 charge Mr. Book, did you know what the  
 13 field sobriety test was?  
 14 A No, Trooper McKenzie gave them.  
 15 Q You didn't know?  
 16 A I didn't give the test.  
 17 MR. ROGAL: He answered the  
 18 question. You're not entitled to a precise  
 19 form --  
 20 MR. CARTER: I don't need a  
 21 lecture.  
 22 MR. ROGAL: Fine.  
 23 Q Did you know, yes or no, what field  
 24 sobriety test was given at the time you